

REMARKS

In the outstanding Final Official Action, the Abstract was objected-to for an informality. Claims 23-24, 27 and 35-38 were rejected under 35 U.S.C. §103(a) over YOKOTA et al. (EP 1,081,699) in view of BIRRELL et al. (U.S. Patent No. 6,332,175). Claims 25-26, 28-34 and 39-44 were rejected under 35 U.S.C. § 103(a) over YOKOTA in view of BIRRELL, and further in view of SHIMADA (U.S. Patent Application No. 2002/0154900).

Upon entry of the present amendment, the Abstract will have been replaced with the attached replacement Abstract. The attached replacement Abstract has been carefully reviewed to ensure that it is free of informalities, and the noted language at line 10 of the previous Abstract has been replaced. In view of the attached replacement Abstract, reconsideration and withdrawal of the outstanding objection is respectfully requested.

Each of the outstanding rejections is respectfully traversed. In this regard, upon entry of the present amendment, claims 1-44 will have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims 45-49 will have been added for consideration. The rejections of claims 23-44 have been rendered moot by the cancellation of these claims. However, Applicants traverse each of the outstanding rejections insofar as claims 45-49 recite combinations of features similar to the combinations previously recited in claims 23-44. In this regard, each of the claims now pending is allowable over the documents applied in the Final Official Action, whether the

documents applied in the Final Official Action are considered alone or in any proper combination.

The herein contained cancellation of claims and addition of new claims should not be considered an indication of Applicants' acquiescence as to the propriety of the outstanding rejections. Rather, claims 22-44 are being cancelled and claims 45-49 are being added in order to advance prosecution and obtain early allowance of claims in the present application.

The documents applied in the outstanding Final Official Action do not disclose, suggest or render obvious the combinations of features recited in independent claim 45. For example, even the combined teachings of YOKOTA, BIRRELL and SHIMADA do not disclose, suggest or render obvious the features of claim 45 which relate to an encoding process. Additionally, even the combined teachings of YOKOTA, BIRRELL and SHIMADA do not disclose, suggest or render obvious the features of claim 45 which relate to a power saving process.

Further, there is no proper motivation to modify YOKOTA in the extensive manner necessary to obtain the combinations of features recited in the pending claims. In this regard, for the combinations of documents applied in an Official Action to render the pending claims obvious, the Official Action must show that there is a teaching, motivation or suggestion of a motivation to combine these documents. In re Lee, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). Further, the Official Action must point to some concrete evidence in the record in support of such findings. In re

Zurko, 258 F.3rd 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). The mere fact that the applied documents may be modified in the manner asserted in an Official Action does not make the modification obvious unless the prior art suggests the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992).

Accordingly, if claim 45 is rejected over YOKOTA in combination with any other document, Applicants respectfully request for each modification to YOKOTA which is acknowledged to be necessary to obtain the combination of features recited in claim 45, an explanation of a proper motivation to so modify YOKOTA.

At least for the reasons set forth above, new claim 45 is not disclosed, suggested or rendered obvious by the teachings of YOKOTA, BIRRELL and SHIMADA. In this regard, even the combination of teachings of YOKOTA, BIRRELL and SHIMADA do not disclose or suggest the combination of features recited in claim 45. Further, there is no proper motivation to modify YOKOTA with the extensive modifications necessary to obtain the combination of features recited in claim 45.

Accordingly, claim 45 is allowable for at least each and all of the numerous reasons set forth above. Each of dependent claims 46-49 is allowable at least for depending, directly or indirectly, from an allowable independent claim 45, as well as for additional reasons related to their own recitations.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone or in combination, discloses or suggests the present invention as now defined by the pending claims, and in further view of the above amendments and remarks, reconsideration of the outstanding Final Official Action and allowance of the present application are respectfully requested and are believed to be appropriate.

Any new claims which have been added in this amendment, and which have not been specifically noted as added to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, any representative of the U.S. Patent and Trademark Office is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,  
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